

REMARKS

Prior to this Amendment, claims 12-31 were pending in the application. Claims 12, 13, 15, 18 and 26 have been amended and Claims 24 and 25 have been canceled. No new matter has been entered. After entry of the Amendment, Claims 12, 14-23 and 26-31 remain for consideration by the Examiner.

Claim Rejections Under 35 U.S.C. §103:

Claims 12-14, 18-19 and 23-31 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,289,223 to Mukherjee (Mukherjee) in view of U.S. Patent No. 6,493,559 to Pecan et al. (Pecan). Claim 15 was rejected under 35 U.S.C. 103(a) as being unpatentable over Mukherjee in view of Pecan, and further in view of U.S. Patent No. 5,515,421 to Sikand et al. (Sikand). Claims 16, 17 and 20-22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mukherjee in view of Pecan, and further in view of U.S. Patent No. 5,974,308 to Vedel (Vedel). Applicant respectfully disagrees with all such rejections.

Claims 12, 14-17 and 23:

Independent Claim 12 recites a process of allowing direct access for individual subscribers to a digital cellular phone network with existing cell broadcast services. The method includes the step of accepting a point-to-point short message from a cellular phone equipped to exchange point-to-point short messages with a short-message center over a cellular phone network. An individual subscriber declares the point-to-point short message as a cellular broadcast message and declares a defined area into which the point-to-point short message is to be beamed, but does not declare a user group in which subscribers are defined. A coupling instance is provided that is interconnectable with the short-message center, and then at least one of a test, an adjustment and

a conversion of the point-to-point short message necessary to convert the point-to-point short message into a cellular broadcast message in the coupling instance is completed. The cellular broadcast message is forwarded to a cell broadcast center by means of a process that applies to the cell broadcast center such that the cellular broadcast message is broadcast to subscribers within a defined area of the cell broadcast center. The method securely and comfortably allows an individual subscriber to directly access a cell broadcast center and send a cell broadcast message to all subscribers within a defined area via sending a regular point-to-point short message. Mukherjee and Pecan do not alone or in combination disclose or suggest the process as recited in independent Claim 1.

Mukherjee discloses a system and method in a telecommunications system for enabling an originating mobile unit to deliver Short Message Service (SMS) messages to a *select* plurality of destination mobile units. More specifically, an originating Short Message Entity (SME) or mobile phone (12) initiates an SMS message while designating a destination MSISDN identifier (usergroup of subscribers). This message is eventually transmitted to a Service Center (SC) (18) and a Short Message Service/Gateway Mobile Services Switching Center (SMS-GMSC) (20), one of which stores a multipoint usergroup database (26). If the SC identifies a match between the destination MSISDN and a given usergroup MSISDN within the database and the originating MSISDN has permission to transmit such a message, transmission to the usergroup is initiated.

The Examiner has equated the individual subscriber declaring the point-to-point short message as a *cellular broadcast message* as recited in independent Claim 12 to the originating mobile unit of Mukherjee being able to transmit an SMS message to a plurality of destination units by transmitting an SMS message addressed to a *predefined usergroup* MSISDN (see middle of page 8 of office action in relation to independent Claim 18). Applicant respectfully disagrees. What the Examiner has equated to the recited "declaring the point-to-point short message as a cellular broadcast message" is exactly opposite from the device of

Mukherjee. Stated otherwise, the device of Mukherjee does not include a point-to-point short message declared as a cellular broadcast message as recited in independent Claim 12 *because it is addressed to a predefined usergroup MSISDN*.

Further, independent Claim 12 now specifically recites that the individual user *does not declare a user group in which subscribers are defined*. Again, as disclosed in Mukherjee and admitted by the Examiner, Mukherjee *does* disclose a user entering or declaring a group identifier (e.g., MSISDN) during initiation of an SMS transmission (see column 2, lines 16-18 and column 4, lines 63-66). Mukherjee even specifically indicates a need in the SMS field to allow an SMS subscriber to specify a number of other SMS subscribers to receive a given communications *without* having to transmit to all possible SMS subscribers (see lines 60-63 of column 1).

The Examiner has admitted in previous office actions (e.g., bottom of page 6 of Final Rejection of July 10, 2008) that Mukherjee does not disclose *not* defining subscribers as part of a usergroup in the point-to-point short message. The Examiner then attempts to remedy this deficiency with the teachings of Pecen. Pecen discloses a method for receiving SMS cell broadcast services in a GSM system. After citing to column 1, lines 23-50 of the Background section of Pecen disclosing that a "Teleservice 23" permits the broadcast of unacknowledged messages to all receivers within a specific geographical region, the Examiner has stated that it would have been obvious to incorporate the teachings of Pecen in the format claimed by Applicant to ensure transmission of emergency messages to all members. Applicant respectfully disagrees.

If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. MPEP 2143.01; *In re Gordon*, 733 F.2d 900, 221 (Fed. Cir. 1984). Moreover, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not

sufficient to render the claims *prima facie* obvious. See MPEP 2143.01; *In re Ratti*, 270 F.2d 810 (CCPA 1959).

Here, the Examiner's combination of Mukherjee and Pecan would render the device of Mukherjee unsatisfactory for its intended purpose and change its principle of operation, and independent Claim 12 is therefore not *prima facie* obvious. Specifically, modifying the invention of Mukherjee so that subscribers were *not* defined as part of a usergroup as recited in independent Claim 12 would completely destroy the system and method of Mukherjee because as stated above, one of the primary goals of the system and method of Mukherjee is to allow a subscriber to define a usergroup of subscribers to which transmission of a multipoint SMS message is desired. Even though Mukherjee does not say, as the Examiner states on page 14 of the office action of December 10, 2008, "that broadcast transmission is inappropriate and should be avoided at all times", the entire purpose of the device of Mukherjee is to allow a subscriber to perform selective multipoint transmission of SMS messages, e.g., to define a usergroup of SMS subscribers to which SMS transmission is desired (see title, abstract, column 2, lines 1-7, etc.). If the Examiner's combination were valid, then the above-mentioned section of the MPEP (e.g., 2143.01) would be completely meaningless, which it clearly is not.

Accordingly, because Mukherjee and Pecan are not alone or in combination sufficient to render independent 12 *prima facie* obvious, Applicant respectfully requests that Independent Claim 12 be indicated as allowable. Moreover, because Claims 14 - 17 and 23 depend from independent Claim 12 and inherit all of the novel and non-obvious features of Claim 12, Applicant additionally respectfully requests reconsideration and allowance of claims 14 - 17 and 23.

Claims 18-22:

Independent Claim 18 recites a device for allowing direct access for individual subscribers to a digital cellular phone network with existing cell broadcast services. The cellular phones of the subscribers are equipped to

exchange point-to-point short messages with a short message center over the cellular phone network, whereby a point-to-point short message that an individual subscriber declares to be a cell broadcast message but for which the individual subscriber does not declare a user group in which subscribers are defined is forwarded to a cell broadcast center to be broadcast to the subscribers within a defined area of the cell broadcast center. The device includes a coupling instance connected to a short message center that accepts point-to-point short messages and a means of doing at least one of a test, an adjustment, and a conversion of the point-to-point short message necessary to convert the point-to-point short message into a cellular broadcast message. The coupling instance is connected to the cell broadcast center to which the converted message is forwarded.

Independent Claim 18 recites that, inter alia, in the device for allowing direct access for individual subscribers to a digital cellular phone network with existing cell broadcast services, a point-to-point short message that an individual subscriber declares to be a cell broadcast message but for which the individual subscriber does not declare a user group in which subscribers are defined is forwarded to a cell broadcast center to be broadcast to the subscribers within a defined area of the cell broadcast center. As previously discussed, Mukherjee *does not* disclose an individual subscriber that declares a point-to-point short message to be a cell broadcast message. Furthermore, it would *not* be obvious to remedy the Examiner-admitted deficiency of Mukherjee failing to teach a subscriber *not* declaring a usergroup in which subscribers are defined with teachings of Pecan for reasons as discussed above. Accordingly, Applicant respectfully requests that Independent Claim 18 be indicated as allowable. Also, as Claims 19-22 depend from independent Claim 18 and inherit all of the novel and non-obvious features of Claim 18, Applicant additionally respectfully requests reconsideration and allowance of claims 19-22.

Claims 26-31:

Independent Claim 26 recites a method of providing a cellular broadcast center with a cellular broadcast message. The method includes receiving a short message from a short message center, the short message being declared by an individual subscriber to be a cellular broadcast message and not being declared by the individual subscriber to be broadcast to subscribers that are defined as part of a user group. The method also includes converting the short message into a cellular broadcast message, and forwarding the cellular broadcast message to a cellular broadcast center to be broadcast to the subscribers within a defined area of the cell broadcast center.

Independent Claim 26 recites that, *inter alia*, the short message is declared by an individual subscriber to be a cellular broadcast message and is not declared by the individual subscriber to be broadcast to subscribers that are defined as part of a user group. As previously discussed, Mukherjee *does not* disclose a short message being declared by an individual to be a cellular broadcast message. Furthermore, it would *not* be obvious to remedy the Examiner-admitted deficiency of Mukherjee failing to teach a short message not being declared by the individual subscriber to be broadcast to subscribers that are defined as part of a user group for previously described reasons. Accordingly, Applicant respectfully requests that Independent Claim 26 be indicated as allowable. Also, as Claims 27-31 depend from independent Claim 26 and inherit all of the novel and non-obvious features of Claim 26, Applicant additionally respectfully requests reconsideration and allowance of claims 27-31.

Conclusions:

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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